



Federal Communications Commission
Washington, D.C. 20554

March 22, 2012

DA 12-441

Via Certified Mail, Return Receipt Requested

Golden Arrow Paging, Inc.
Attn: Charles LaCroix
2125 Sidney Baker
Kerrville, TX 78028

Re: Final Default Payment for fifteen Auction 40 Licenses CP-BEA084-FA (Baton Rouge, LA-MS); CP-BEA087-FA (Beaumont-Port Arthur, TX); CP-BEA127-FA (Dallas-Forth Worth, TX-AR-OK); CP-BEA129-FA (San Angelo, TX); CP-BEA129-FB (San Angelo, TX); CP-BEA129-FC (San Angelo, TX); CP-BEA129-FD (San Angelo, TX); CP-BEA129-FE (San Angelo, TX); CP-BEA130-FA (Austin-San Marcos, TX); CP-BEA134-FA (San Antonio, TX); CZ-MEA031-AA (Houston); CZ-MEA031-AJ (Houston); CA-MEA031-AK (Houston); CZ-MEA031-AV (Houston); CZ-MEA038-AV (San Antonio)

DO NOT DISCARD THIS IMPORTANT NOTICE
OF A DEMAND FOR PAYMENT
OF A DEBT OWED THE UNITED STATES AND ORDER OF PAYMENT

Dear Mr. LaCroix:

This Order provides notice and demands payment of a debt owed to the United States based on the default of Golden Arrow Paging, Inc. ("Golden Arrow") on its final payment for licenses it won in Auction 40.

Golden Arrow had winning bids in Auction 40 for twenty-two Lower and Upper Paging Band licenses. After the close of Auction 40, Golden Arrow defaulted on its final payment obligation for those licenses.¹ Thus, pursuant to the Commission's rules,² Golden Arrow owes a default payment, which is a debt owed to the United States.³ In 2007, the Commission assessed Golden Arrow a total initial default payment of \$1,770.00 from the monies it had on deposit.⁴ New licenses for the same spectrum were

¹ See Letter from Rita Cookmeyer, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, to Golden Arrow Paging, Inc., c/o Foster Charitable Foundation, Inc., Attn: David L. Greenwald, ("Letter"), 22 FCC Rcd 14069 (WTB 2007).

² See 47 C.F.R. §§ 1.2104(g)(2), 1.2109(b).

³ See 31 U.S.C. § 3701(b)(1).

⁴ See also Letter, 22 FCC Rcd at 14073; see 47 C.F.R. § 1.2104(g)(2). We will apply \$1,620.00 of the \$1,770.00 assessed initial default payment toward the final default payment owed for these fifteen licenses. The balance of \$150.00 will remain on deposit with the Commission until the final default payment for the remaining seven licenses can be determined.

offered in a subsequent auction of lower and upper paging bands (Auction 87) and because fifteen of the twenty-two defaulted licenses received a winning bid,⁵ the Commission is now able to calculate Golden Arrow's final default payment obligation with respect to those licenses.⁶

Under the Commission's rules, at the close of the auction, a winning bidder assumes a binding obligation to pay the full amount of its accepted winning bid. A bidder who defaults on that obligation or is disqualified is subject to a default payment.⁷ The default payment has two components. The first component is the difference between the bidder's net defaulted bid and the subsequent net winning bid, or the difference between the bidder's gross defaulted bid and the subsequent gross winning bid, whichever is less, the next time a license for the spectrum is won, should the subsequent winning bid be less than the defaulted bid.⁸ The second component of the default payment is an additional payment, which, pursuant to the rule in effect at the time of Auction 40, is equal to three percent (3%) of the defaulter's bid, or the subsequent winning bid, whichever is less.⁹ In the event that the subsequent winning bid is greater than or equal to the defaulted bid, the total default payment is equal to three percent (3%) of the defaulted bid.¹⁰

As shown in Attachment A, in accordance with section 1.2104(g)(2) of the Commission's rules, we have completed the final default payment calculation and, after applying the monies Golden Arrow has on deposit,¹¹ Golden Arrow owes an outstanding balance of \$25,011.50. This debt to the United States is payable in full and without further demand within 30 days of the date of this Order in accordance with the Notice Information provided below and Payment Instructions at Attachment B.

⁵ See Auction of Lower and Upper Paging Bands Licenses Closes, Winning Bidders Announced for Auction 87, *Public Notice*, 25 FCC Rcd 18164 (WTB 2010).

⁶ 47 C.F.R. § 1.2104(g)(2). Until new licenses for the relevant spectrum associated with the seven remaining defaulted licenses are won in a subsequent auction, the Commission cannot determine the full amount of the default payment that is owed for those licenses. Once a subsequent winning bid for the relevant spectrum is established, the remaining amount owed by Golden Arrow, if any, will then be assessed.

⁷ 47 C.F.R. §§ 1.2104(g)(2), 1.2109(b).

⁸ 47 C.F.R. § 1.2104(g)(2)(i).

⁹ 47 C.F.R. § 1.2104(g)(2)(2001).

¹⁰ *Id.*

¹¹ Golden Arrow paid an upfront payment of \$20,000.00 to participate in Auction 40. See Lower and Upper Paging Bands Auction Closes; Winning Bidders Announced, *Public Notice*, 16 FCC Rcd 21821 (WTB 2001). The Commission applied \$2,550.00 of that amount towards Golden Arrow's withdrawal payment for license MEA039-AA. See Letter from Rita Cookmeyer, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, to Kent S. Foster, Golden Arrow Paging, Inc., 19 FCC Rcd 22466 (WTB 2004). As a result, Golden Arrow currently has \$17,450.00 on deposit with the Commission. However, the Commission is withholding \$150.00 of the monies on deposit as the interim default payments for the seven remaining licenses that have not yet received winning bids. Thus, only \$17,300.00 of Golden Arrow's deposit will be applied towards its outstanding balance.

Important Notice Information

The following provides notification of procedures and information required by the Debt Collection Improvement Act of 1996 (“DCIA”).¹² The outstanding balance shown in Attachment A is a debt Golden Arrow owes to the United States. It is payable in full and without further demand, and payment must be received no later than the payment due date, which is 30 days from the date of this Order (“Due Date”).¹³ Any portion of the debt unpaid at the end of the Due Date will be considered delinquent and administrative charges (incurred for processing and handling delinquent debts),¹⁴ interest,¹⁵ and penalties¹⁶ will accrue beginning from that date. Interest accrues at a minimum annual rate established annually by the Treasury in accordance with 31 U.S.C. § 3717.¹⁷ A penalty of six percent (6%) accrues on any portion of the debt that remains unpaid for more than 90 days from the Due Date.¹⁸ However, the Commission will waive payment of the accrued interest, if the full amount of the debt is paid within 30 days of the Due Date.¹⁹ In addition to these charges, the Commission may initiate administrative offset,²⁰ and it may refer the delinquent debt to the United States Treasury or the Department of Justice (“DOJ”) for further collection action.²¹ The United States Treasury will impose an additional administrative collection charge,²² and it may also commence administrative offset.²³ An additional surcharge may be imposed, if DOJ initiates judicial action to recover judgment.²⁴ Furthermore,

¹² Public Law 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996) *codified in relevant part at* 31 U.S.C. §§ 3716 (administrative offset) and 3717 (interest and penalty on claims); *see also* 47 C.F.R. §§ 1.1911, 1.1912, and 1.1940.

¹³ As noted at Attachment B, if the 30th day falls on a non-business day, payment must be received on the next business day.

¹⁴ 31 U.S.C. § 3717(e)(1); 47 C.F.R. § 1.1940(c).

¹⁵ 31 U.S.C. § 3717(b); 47 C.F.R. § 1.1940(b).

¹⁶ 31 U.S.C. § 3717(e); 47 C.F.R. § 1.1940(d).

¹⁷ 47 C.F.R. § 1.1940(b).

¹⁸ 31 U.S.C. § 3717(e)(2); 47 C.F.R. § 1.1940(d).

¹⁹ 31 U.S.C. § 3717(d) and 47 C.F.R. § 1.1940(g).

²⁰ 47 C.F.R. § 1.1912. Under this provision the Commission may refer the debt to the Treasury for centralized administrative offset whereby, subject to certain exceptions, money otherwise payable to the debtor by the United States government may be used to satisfy the debt. In addition, “unless otherwise prohibited by law,” the Commission may conduct “non-centralized, ad hoc case-by-case offsets when centralized offset is unavailable or inappropriate.” 47 C.F.R. § 1.1912(c).

²¹ 31 U.S.C. §§ 3711(g), 3716; 28 U.S.C. § 3001, *et seq.*; 47 C.F.R. § 1.1912. Transfer may be made without further notice at any time after the Due Date.

²² 31 U.S.C. § 3717(e); 31 C.F.R. § 285.12 (j).

²³ 31 U.S.C. § 3716; 47 C.F.R. § 1.1912(b) (mandatory centralized administrative offset).

²⁴ 28 U.S.C. § 3011.

any portion of the debt that is unpaid after the Due Date is a delinquent debt, which will trigger application of the Commission's red light procedures at 47 C.F.R. § 1.1910.

Ordering Clauses

Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and section 1.2104(g)(2) of the Commission's rules, 47 C.F.R. § 1.2104(g)(2), Golden Arrow Paging, Inc. is ASSESSED a final default payment obligation as computed in Attachment A.

IT IS FURTHER ORDERED that, pursuant to sections 1.2104 and 1.2106 of the Commission's rules, 47 C.F.R. §§ 1.2104 and 1.2106, Golden Arrow Paging, Inc.'s interim payment or funds on deposit will be applied towards the final default payment.

IT IS FURTHER ORDERED that Golden Arrow Paging, Inc.'s debt of \$25,011.50 is payable in full and without further demand, and it must be paid within 30 days of the date of this Order (the Due Date), in accordance with the payment instructions in Attachment B, and any portion of the debt unpaid after the Due Date is delinquent, and under 31 U.S.C. § 3717, administrative charges, interest, and penalties will accrue.

IT IS FURTHER ORDERED that this Order and a FCC Remittance Advice Form (FCC Form 159, Version 2/03) shall be sent to Golden Arrow Paging, Inc. and its representatives by certified mail, return receipt requested. This action is taken pursuant to authority delegated by section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Sincerely,

Margaret W. Wiener
Chief, Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

cc: William J. Sill, Esq.
Sherry Wheeler

ATTACHMENT A

Multi-Auction Default Payment Report

License Number Frequency Block	Defaulted Gross Bid Auction 40	Defaulted Net Bid Auction 40	Re-auction Gross Bid Auction 87	Re-auction Net Bid Auction 87	3% Payment	Lower Difference Payment	Final Payment
CP-BEA084-FA (Baton Rouge, LA- MS)	\$500.00	\$500.00	\$500.00	\$325.00	\$15.00	\$0.00	\$15.00
CP-BEA087-FA (Beaumont-Port Arthur, TX)	\$3,400.00	\$3,400.00	\$500.00	\$325.00	\$15.00	\$2,900.00	\$2,915.00
CP-BEA127-FA (Dallas-Fort Worth, TX)	\$23,000.00	\$23,000.00	\$5,000.00	\$5,000.00	\$150.00	\$18,000.00	\$18,150.00
CP-BEA129-FA (San Angelo, TX)	\$1,700.00	\$1,700.00	\$500.00	\$375.00	\$15.00	\$1,200.00	\$1,215.00
CP-BEA129-FB (San Angelo, TX)	\$1,700.00	\$1,700.00	\$500.00	\$375.00	\$15.00	\$1,200.00	\$1,215.00
CP-BEA129-FC (San Angelo, TX)	\$500.00	\$500.00	\$500.00	\$375.00	\$15.00	\$0.00	\$15.00
CP-BEA129-FD (San Angelo, TX)	\$2,400.00	\$2,400.00	\$500.00	\$375.00	\$15.00	\$1,900.00	\$1,915.00
CP-BEA129-FE (San Angelo, TX)	\$500.00	\$500.00	\$500.00	\$375.00	\$15.00	\$0.00	\$15.00
CP-BEA130-FA (Austin-San Marcos, TX)	\$3,500.00	\$3,500.00	\$500.00	\$375.00	\$15.00	\$3,000.00	\$3,015.00
CP-BEA134-FA (San Antonio, TX)	\$2,000.00	\$2,000.00	\$500.00	\$375.00	\$15.00	\$1,500.00	\$1,515.00
CZ-MEA031-AA (Houston)	\$4,100.00	\$4,100.00	\$500.00	\$500.00	\$15.00	\$3,600.00	\$3,615.00
CZ-MEA031-AJ (Houston)	\$2,600.00	\$2,600.00	\$500.00	\$500.00	\$15.00	\$2,100.00	\$2,115.00

License Number Frequency Block	Defaulted Gross Bid Auction 40	Defaulted Net Bid Auction 40	Re-auction Gross Bid Auction 87	Re-auction Net Bid Auction 87	3% Payment	Lower Difference Payment	Final Payment
CZ-MEA031-AK (Houston)	\$3,000.00	\$3,000.00	\$500.00	\$500.00	\$15.00	\$2,500.00	\$2,515.00
CZ-MEA031-AV (Houston)	\$4,100.00	\$4,100.00	\$550.00	\$550.00	\$16.50	\$3,550.00	\$3,566.50
CZ-MEA038-AV (San Antonio)	\$1,000.00	\$1,000.00	\$500.00	\$500.00	\$15.00	\$500.00	\$515.00

Total Final Default Payment Due	\$42,311.50
Less Amount on Deposit*	\$17,300.00
Outstanding Balance Due on Final Default Payment	\$25,011.50

* For purposes of calculating Golden Arrow's outstanding balance, the amount on deposit does not include the \$150.00 interim default payment the Commission withheld for the seven licenses that have not yet received subsequent winning bids.

ATTACHMENT B

Payment Instructions

The following information is being provided to assist you in making your payment.

All payments must be made in U.S. currency in the form of a wire transfer. No personal checks, cashier's checks or other forms of payment will be accepted. Wire transfer payments must be received by 6:00 PM Eastern Time, no later than thirty days from the date of this ORDER; however, if the 30th day falls on a non-business day, e.g., Saturday, Sunday or holiday, it is due the next business day. Applicants must allow sufficient time for the wire transfer to be initiated and for the transmission to be completed prior to the deadline. To submit funds by wire, applicants will need the following information to properly effect the transmittal:

ABA Routing Number: **021030004**

Receiving Bank: **TREAS NYC**

33 Liberty Street

New York, NY 10045

ACCOUNT NAME: **FCC**

ACCOUNT NUMBER: **27000001**

OBI Field: (Skip one space between each information item) "AUCTIONPAY"

APPLICANT FRN: (same as FCC Form 159, block 21)

PAYMENT TYPE CODE: (same as FCC Form 159, block 24A: "APEN")

FCC CODE 1: (same as FCC Form 159, Block 28A: "40")

PAYOR NAME: (same as FCC Form 159, Block 2)

LOCKBOX NO.: **#979088**

Please fax a completed remittance advice (Form 159) to U.S. Bank, St. Louis, Missouri at (314) 418-4232 **at least one hour before initiating the wire transfer** (but on the same business day).

For questions regarding the submission of payment, and the FCC Form 159, contact Gail Glasser, Office of the Managing Director, Financial Operations, Auctions Accounting Group, at (202) 418-0578.